



10/068,574

AF
JLW

BY THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appl. No. : 10/068, ~~474~~ Confirm. No. 8161
Appellants : Christopher James Brown et al.
Filed : February 5, 2002
TC/A.U. : 3643
Examiner : Kurt C. Rowan

Docket No. : 02-440
Customer No: 34704

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

REPLY BRIEF

Sir:

This is in response to the Examiner's Answer mailed
October 19, 2005.

ARGUMENT

On page 4, the Examiner argues that Tryon incorporates animal features into (emphasis added) the main body by adhesively mounting the photos to wings and body. This is wrong. The photos are not incorporated into the main body. The photos are mounted onto the main body.

Further, on page 4 of the Examiner's, the Examiner contends that the photos could be mounted by other means such as tacks, nails, clamps, and paper clips, rivets, hook and loop fasteners. This is not true. All of the means mentioned by the Examiner could lead to the photographs

being torn. Therefore, one of ordinary skill in the art would not be motivated to use any of these approaches. Further, all of these other means adds unnecessary and undesirable weight to the decoy.

Further with regard to the Examiner's comments on page 4 of the Examiner's Answer, the test of obviousness is not what one could do. Missing from the Examiner's response is any mention or citation of any reference that would teach or suggest using one of these means or that would motivate one of ordinary skill in the art to use such means.

Appellants submit that one of ordinary skill in the art having the Tryon references before him/her would not be motivated to use any of these means. If they were motivated to do anything, it would be to go to the store and buy more adhesive.

As for the Examiner's comments about claim 22 on page 4 of the Examiner's Answer, screen printing may be old in the art; but one would not use it to adhesively secure a photograph to a decoy. The Examiner has cited no reference which teaches or suggests using screen printing a photograph onto a decoy. Therefore, the issue is not properly before the Board.

With regard to the Examiner's comments about claim 24, Appellants have previously presented their arguments

concerning the combination of Palmer and Tryon in Appellant's Appeal Brief.

The Examiner's argument about claim 30 on page 4 of the Appeal Brief is duly noted; however, Tryon still lacks a photograph containing animal features *incorporated into* the main body. Tryon has photographs mounted onto the main body. As for what one of ordinary skill in the art would do, Tryon does not teach mounting a separate photograph of a decoy on the head portion.

With regard to the Examiner's comments about claim 31, it can not be too obvious to provide multiple heads because neither reference does it.

Appellants note that the Examiner has not disputed Appellants' comments about the patentability of claims 24 and 29.

CONCLUSION

Claims 21 - 33 are allowable for the reasons set forth in Appellants' Appeal Brief and for the reasons set forth hereinabove.

The Board is respectfully request to reverse the rejections of record and remand the case to the Examiner for allowance and issuance.

FEES

No fee is believed to be due as a result of this Reply Brief. Should the Director determine that a fee is due, he is hereby authorized to charge said fee to Deposit Account No. 02-0184.

Respectfully submitted,

Christopher James Brown et al.

By: 

Barry L. Kelmachter
BACHMAN & LaPOINTE, P.C.
Reg. No. 29,999
Attorney for Appellants

Tel: 203-777-6628 ext. 112

Fax: 203-865-0297

E-mail: kelmachter@
bachlap.com

Date: December 19, 2005

IN TRIPLICATE

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313" on December 19, 2005.



Antoinette Sullo